



MOD Date

1. Complaint Number

2. Employer Name

3. Site Location (Street, City, State, ZIP)

4. Mailing Address (if different) (Street, City, State, ZIP)

5. Management Official

6. Telephone Number

7. Type of Business

8. Hazard Description. Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard:

This constitutes a "formal complaint" as that term is defined by OSHA.<sup>1</sup> By law, all complaints meeting the requirements for a formal complaint must be investigated.<sup>2</sup> This formal complaint is brought under and pursuant to the "general duty clause" of the OSH Act<sup>3</sup> which requires that "each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."

Complainant alleges he or she is being exposed, in violation to the general duty clause of the OSH Act, to levels of chemicals known as secondhand tobacco smoke or Environmental Tobacco Smoke (ETS) found by the Environmental Protection Agency (EPA), National Institute for Occupational Safety and Health (NIOSH), U.S. Public Health Service (USPHS), National Research Council of the National Academy of Sciences, National Cancer Institute, International Agency for Cancer Research (IACR), World Health Organization (WHO), American Medical Association, American Cancer Society, and the American Lung Association to cause lung cancer (and deaths from lung cancer), as well as numerous other health hazards, even in otherwise healthy adults — and thus is likely to cause death or serious physical harm to employees, including complainant.

This complaint further alleges that this forced exposure to a substance the EPA has classified as an "Group A Carcinogen" (in the same category as benzene, asbestos, and arsenic),<sup>4</sup> and NIOSH has classified as a "potential occupational carcinogen,"<sup>5</sup> substantially exceeds the official exposure recommendations of the U.S. Public Health Service, and the official federal guidelines for exposure to ETS promulgated by the EPA<sup>6</sup> and NIOSH.<sup>7</sup> Both require that, if any smoking is permitted in an indoor work area, it be restricted to separate rooms which are individually ventilated and are negatively pressurized.

Complainant also alleges that exposure to ETS is a "recognized hazard," as that term is defined by OSHA,<sup>8</sup> because it is a condition which by common knowledge is hazardous (see above findings), and is detectable by means of the senses — and that complainant has clearly detected the exposure by smelling the distinct odor of ETS and/or by seeing the particles of ETS in the air.

NOTES: [1.] "To meet the formality requirements outlined in Section 8(f) of the Act and in 29 CFR 1903.11, a complaint shall: (1) Be reduced to writing either on a Notice of Alleged Safety or Health Hazards (OSHA-7 Form) or in a letter; (2) Allege that an imminent danger or a violation threatening physical harm (i.e., a hazard covered by a standard or by the general duty clause) exists in the workplace; (3) Set forth with reasonable particularity the grounds upon which it is based. This does not mean that the complaint must specify a particular standard; it need only specify a condition or practice that is hazardous and, if uncommon, why it is hazardous; and (4) Be signed by at least one employee or employee representative." Chapter IX — Complaints and Referrals, A.2.d., OSHA Field Operations Manual at 201 (7-29-92). ■ [2.] Chapter IX — Complaints and Referrals, A.7., OSHA Field Operations Manual at 203 (7-29-92). ■ [3.] 29 USC § 654(a)(1). ■ [4.] "Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders," EPA/600/6-90/006F (1993). ■ [5.] "Environmental Tobacco Smoke in the Workplace," Pub. 91-108. ■ [6.] "Secondhand Smoke," 402-F-004, July 1993. ■ [7.] "Environmental Tobacco Smoke in the Workplace," Pub. 91-108. ■ [8.] Consolidated Engineering Co., 12 OSAHRC 490 (1974) 2 OSCH 1253, see generally 61 Am Jur 2d Plant and Job Safety § 36.

[For Additional Citations and Information, write or call Action on Smoking and Health (ASH), 1013 H St., N.W., Wash. D.C. 20006, (202) 659-4310.]

COMPLAINANT: Add below in your own words additional details about the type, amount, and circumstances of exposure, any immediately evident health consequences, and approximate number of workers exposed (if known):

9. Hazard Location. Specify the particular building or worksite where the alleged violation exists:

10. Has this condition been brought to the attention of: (Mark "X" in all that apply)

☐ Employer ☐ Other Government Agency (specify) \_\_\_\_\_

11. Please indicate your desire:

☐ Do not reveal my name to the Employer. ☐ My name may be revealed to the Employer.

12. The Undersigned: (Mark "X" in one box)

☐ Employee ☐ Federal Safety and Health Committee  
☐ Representative of Employees ☐ Other (specify) \_\_\_\_\_

... believes that a violation of an Occupational Safety or Health standard exists which is a job safety or health hazard at the establishment named on this form.

13. Complainant Name (Type or print name)

14. Telephone Number

15. Address (Street, City, State, ZIP):

16. Signature:

17. Date

18. If you are an authorized representative of employees affected by this complaint, please state the name of the organization that you represent and your title:

Organization Name:

Your Title:

OFFICIAL USE ONLY

19. Reporting ID 20. Previous Activity? ☐ Yes ☐ No  
If Yes, enter Type: Number: 21. Optional Complaint Number

Identification 22. Establishment Name Change? ☐ 23. Site Address Change? ☐ 24. Employer ID (State's option) 25. City Code 26. County Code

Receipt Information 27. Received by: 28. Send OSHA-7? ☐ Yes ☐ No 29. Date 30. Time AM PM 31. Supervisor(s) Assigned: a. b.

Industry & Ownership 32. Primary SIC 33. Ownership (Mark "X" in one box)  
a. ☐ Private Sector b. ☐ Local Government c. ☐ State Government d. ☐ Federal Agency/Code

Complaint Evaluation 34. Evaluated by: 35. Subject and Severity  
Discrimination ☐  
Imminent Danger ☐ Serious ☐ Other ☐  
Safety ☐ Health ☐  
36. Is This a Valid Complaint? ☐ Yes ☐ No  
37. Formality ☐ Formal ☐ Nonformal  
38. ☐ Migrant Farmworker Camp

Complaint Action 39. Send Letter:  
a. ☐ No Inspection — for Invalid Complaints  
☐ Too Vague or Unsubstantiated  
☐ Recent Inspection or Objective Evidence (Date of Inspection: \_\_\_\_\_)  
☐ Not in OSHA's Jurisdiction  
b. ☐ No Inspection — for Nonformal Complaints  
☐ No Imminent Danger or No Standard  
☐ No Direct Relation to S&H  
☐ Not Enough Information To Evaluate  
c. ☐ OSHA-7 for Signature With Letter  
☐ Complete or ☐ Partial  
d. ☐ Nonformal Complaint Notification to Employer  
☐ Complainant Notified ☐ Explanation of 11(c)  
e. ☐ Complainant Notification With Letter d  
☐ Name Not Revealed ☐ Explanation of 11(c)  
f. ☐ Acknowledgement to Complainant (Optional)  
g. ☐ Other (specify) \_\_\_\_\_

40. Date Letter Sent: \_\_\_\_\_

41. Date Response Due (For letters c or d): \_\_\_\_\_

42. Inspection Planned?

☐ Yes ☐ No

If Yes,  
Priority:

If No,  
Reason:

43. Transfer to (Name): \_\_\_\_\_

44. Transfer Date: \_\_\_\_\_

45. Transfer to (Category):

a. ☐ Federal OSHA/Reporting ID

b. ☐ State OSH/Reporting ID

c. ☐ Other Federal Agency/Code

d. ☐ State/Local Government

e. ☐ Other

46. Optional Information

Type	ID	Value	Type	ID	Value

47. Total Entries

Close Complaint

48. ☐ Close Complaint

49. Comments: